

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Petition of SBC Communications Inc.
for Forbearance of Structural Separation
Requirements and Request for Immediate
Interim Relief in Relation to the Provision of
Nonlocal Directory Assistance Services
WC Docket No. 02-156

MEMORANDUM OPINION AND ORDER

Adopted: April 28, 2003

Released: April 28, 2003

By the Senior Deputy Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. SBC Communications Inc. (SBC), on behalf of Nevada Bell, filed a petition for forbearance from the enforcement of section 272 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act), in connection with its provision of nonlocal directory assistance services in Nevada. In this Order, we conclude that SBC's provision of nonlocal directory assistance service to its in-region subscribers constitutes the provision of in-region, interLATA service, as defined in section 271(a) of the Act. Because we find, however, that these services fall within the scope of the exception provided in section 271(g)(4), we conclude that SBC may provide nonlocal directory assistance service in Nevada without authorization from the Commission to provide in-region, interLATA service pursuant to the requirements of section 271(d).

2. Although the incidental, interLATA services described in section 271(g)(4) must normally be provided through a separate affiliate, we forbear, in part, from applying the requirements of section 272 to SBC's nonlocal directory assistance services in Nevada.

1 Petition of SBC Communications Inc. for Forbearance of Structural Separation Requirements and Request for Immediate Interim Relief in Relation to the Provision of Nonlocal Directory Assistance Services, WC Docket No. 02-156 (filed May 24, 2002) (SBC Petition). Comments were filed on July 12, 2002, by AT&T Corp., WorldCom, and the United States Telecom Association. Reply comments were filed on July 22, 2002, by SBC Communications.

2 We note that SBC was granted authority pursuant to section 271(d) to provide in-region, interLATA services in Nevada on April 14, 2003. Application by SBC Communications Inc., Nevada Bell Telephone Company, and Southwestern Bell Communications Services, Inc., for Authorization to Provide In-Region, InterLATA Services in Nevada, WC Docket No. 03-10, Memorandum Opinion and Order, FCC 03-80 (rel. Apr. 14, 2003).

3 See 47 U.S.C. § 272(a)(2)(B)(i).

4 See Petition of U S WEST Communications, Inc. for a Declaratory Ruling Regarding the Provision of

Pursuant to section 272(c)(1) and our authority under sections 4(i), 10, and 303(r) of the Act, we allow SBC to provide nonlocal directory assistance on an integrated basis, but we require it to make available to unaffiliated entities all of the in-region telephone numbers it uses to provide nonlocal directory assistance service at the same rates, terms, and conditions it imputes to itself.⁵

II. BACKGROUND

A. SBC's Nonlocal Directory Assistance Services

3. SBC currently offers nonlocal directory assistance service to customers throughout its regions except in Nevada.⁶ These services permit SBC to offer both local and nonlocal directory assistance service from a single telephone number.⁷

4. SBC's nonlocal directory assistance service will be offered in Nevada in the same service configuration as in Pacific Bell and Southwestern Bell states, using SBC-owned information storage facilities that provide nonlocal directory assistance listings.⁸ Specifically,

National Directory Assistance, CC Docket No. 97-172, *Petition of U S WEST Communications, Inc., for Forbearance*, CC Docket No. 97-172, *The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, Memorandum Opinion and Order, 14 FCC Rcd 16252, 16254, paras. 2-3 (1999) (*U S WEST NDA Forbearance Order*).

⁵ See *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16254, para. 3.

⁶ See *BellSouth Petition for Forbearance for Nonlocal Directory Assistance Service, Petition of SBC Communications Inc. for Forbearance of Structural Separation Requirements and Request for Immediate Interim Relief in Relation to the Provision of Nonlocal Directory Assistance Services, Petition of Bell Atlantic for Further Forbearance from Section 272 Requirements in Connection with National Directory Assistance Services*, CC Docket No. 97-172, Memorandum Opinion and Order, 15 FCC Rcd 6053 (Com. Car. Bur. 2000) (*SBC NDA Forbearance Order*). The forbearance granted in the *SBC NDA Forbearance Order* extended only to Ameritech, Southwestern Bell, and Pacific Bell. It did not address the petition filed on behalf of Nevada Bell because Nevada Bell did not provide nonlocal directory assistance service at that time. Instead, it concluded that Nevada Bell would be required to demonstrate that its nonlocal directory assistance service falls within the scope of section 271(g)(4) at the time it sought to provide such service. See *id.*, at 6053, para. 1 n.2. SBC now seeks to provide nonlocal directory assistance service in Nevada. See SBC Petition at 2.

⁷ See *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16254-55, paras. 5-7. In the *U S WEST NDA Forbearance Order*, the Commission noted that there are two types of directory assistance services available to customers throughout the United States: local directory assistance service and nonlocal directory assistance service. See *id.*, at 16254-55, paras. 5-6. Directory assistance service is considered "local" whenever a customer requests the telephone number of a subscriber within his or her LATA or area code. See *id.*, at 16254-55, para. 5. Customers typically access their local exchange carrier's local directory assistance service by dialing 411, 1-411, or 555-1212. Directory assistance service is considered "nonlocal" whenever a customer requests the telephone number of a domestic subscriber located outside his or her LATA or area code. See *id.*, at 16254-55, para. 6. Under the Modification of Final Judgment (MFJ), Bell Operating Companies (BOCs) were prohibited from providing nonlocal directory assistance service. See *id.*, at 16255, para. 6. Thus, nonlocal directory assistance service traditionally has been provided by interexchange carriers. See *id.*

⁸ See SBC Petition at 2; see also *Petition of SBC Communications Inc. for Forbearance of Structural Separation Requirements and Request for Immediate Interim Relief in Relation to the Provision of Nonlocal Directory Assistance Services*, CC Docket No. 97-172 (filed Nov. 2, 1999); SBC Communications Inc.'s

when a customer dials the number for local directory assistance service, the local central office switch will route the call to an operator services switch, which adds a voice response unit to the call. The voice response unit will deliver a script requesting the city, state, and listing desired and record the caller's responses. The operator receiving the call listens to the recorded request from the voice response unit and, if the end user's response is incomplete or unintelligible, communicates directly with the caller to ascertain the desired listing. Upon obtaining this information, the operator launches a database query.⁹

5. If the requested number is local, the operator launches a query to an information storage facility that contains local directory listing information. On any such call, the caller, operator, and database may be located in different LATAs. SBC typically uses its Official Services Networks, which cross LATA boundaries, for the provision of local directory assistance service to its own local exchange subscribers.¹⁰

6. If the requested number is nonlocal, it will be retrieved from an information storage facility that contains either regional or nationwide listings.¹¹ A regional information storage facility is queried when the caller requests the telephone number of a subscriber located within one of SBC's in-region states. An information storage facility that contains national listings is queried when the caller requests the telephone number of a subscriber that resides outside the SBC regions. On any nonlocal directory assistance call, the end user, operator, and information storage facility information may be located in different LATAs.¹² Thus, SBC's nonlocal directory assistance service is provided on an interLATA basis.

B. Statutory Framework

1. Sections 271 and 272

Clarification and Supplement to its Petition for Forbearance, CC Docket No. 97-172 (filed Nov. 19, 1999); *Petition of U S WEST Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance*, CC Docket No. 97-172, Order on Reconsideration, 17 FCC Rcd 17030, 17034, para. 8 (2002) (*U S WEST NDA Forbearance Order on Reconsideration*) (concluding that an ownership interest of greater than 10 percent in information storage facilities makes those facilities the "information storage facilities of such company" under section 271(g)(4)).

⁹ See *SBC NDA Forbearance Order*, 15 FCC Rcd at 6055, para. 4; Letter from Toni R. Acton, Associate Director – Federal Regulatory, SBC, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-156, Attach. at 1 (filed Mar. 18, 2003) (SBC Mar. 18 *Ex Parte* Letter).

¹⁰ See *SBC NDA Forbearance Order*, 15 FCC Rcd at 6055-56, para. 5; SBC Mar. 18 *Ex Parte* Letter, Attach. at 1; see also *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16256, para. 8.

¹¹ See *SBC NDA Forbearance Order*, 15 FCC Rcd at 6056, para. 6. SBC states that Nevada Bell will query an SBC-owned information storage facility in Concord, California for California and Nevada listings and will query an SBC-owned information storage facility in Rochester, New York for all other nonlocal listings. See SBC Petition at 2; SBC Mar. 18 *Ex Parte* Letter, Attach. at 1

¹² See *SBC NDA Forbearance Order*, 15 FCC Rcd at 6056, para. 6; SBC Mar. 18 *Ex Parte* Letter, Attach. at 1.

7. Sections 271 and 272 establish a comprehensive framework governing BOC provision of “interLATA service.”¹³ Pursuant to section 271(a) and (b), neither a BOC nor a BOC affiliate may provide in-region, interLATA service prior to receiving authorization from the Commission.¹⁴ Section 271(b)(3) does, however, authorize BOCs to engage in the provision of the “incidental interLATA services” described in section 271(g) immediately after the date of enactment of the 1996 Act.¹⁵ One such service is defined in section 271(g)(4) as “the interLATA provision by a [BOC] or its affiliate . . . of a service that permits a customer that is located in one LATA to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another LATA.”¹⁶ There are two limitations to our interpretation of this section. First, section 271(g)(4) must be “narrowly construed.”¹⁷ Second, we must ensure that the services authorized under section 271(g)(4) “will not adversely affect telephone exchange service ratepayers or competition in any telecommunications market.”¹⁸ BOCs are required to provide the services authorized under section 271(g)(4) through a separate affiliate.¹⁹

2. Section 10

8. The 1996 Act requires the Commission to forbear from applying any regulation or any provision of the Act to telecommunications carriers or telecommunications services, or classes thereof, if the Commission determines that the three conditions set forth in section 10 are satisfied. In particular, section 10 provides that

the Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier or telecommunications service, or class of telecommunications carriers or telecommunications services, in any or some of its or their geographic markets, if the Commission determines that --

- (1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable, and are not unjustly or unreasonably discriminatory;

¹³ The term “interLATA service” is defined in the Act as “telecommunications between a point located in a local access and transport area and a point located outside such area.” 47 U.S.C. § 153(21). “Telecommunications” is defined as “the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.” 47 U.S.C. § 153(43).

¹⁴ 47 U.S.C. § 271(a), (b).

¹⁵ 47 U.S.C. § 271(b)(3).

¹⁶ 47 U.S.C. § 271(g)(4).

¹⁷ 47 U.S.C. § 271(h).

¹⁸ 47 U.S.C. § 271(h).

¹⁹ 47 U.S.C. § 272(a)(2)(B)(i).

- (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and
- (3) forbearance from applying such provision or regulation is consistent with the public interest.²⁰

With regard to the public interest determination required by section 10(a)(3), section 10(b) states that, “[i]f the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest.”²¹

III. DISCUSSION

A. Overview

9. In the *U S WEST NDA Forbearance Order*, the Commission held that U S WEST (now Qwest) could provide the regionwide component of its nonlocal directory assistance service without obtaining authorization from the Commission to provide in-region, interLATA service under section 271(d), because such service fell within the scope of the exception provided in section 271(g)(4).²² Although section 272 requires the services described in section 271(g)(4) to be provided through a separate affiliate, the Commission forbore from enforcing those requirements with respect to U S WEST’s provision of the regionwide component of its nonlocal directory assistance service, but retained the nondiscrimination requirements of section 272(c)(1).²³ Since the *U S WEST NDA Forbearance Order*, the Common Carrier Bureau (now the Wireline Competition Bureau) has granted other petitions for forbearance from section 272 for BOCs’ nonlocal directory assistance services on delegated authority.²⁴

B. Section 271(g)(4)

10. We conclude that SBC’s provision of nonlocal directory assistance service in Nevada will constitute the provision of in-region, interLATA service.²⁵ In providing nonlocal

²⁰ 47 U.S.C. § 160(a).

²¹ 47 U.S.C. § 160 (b). Section 10(d) specifies that “[e]xcept as provided in section 251(f), the Commission may not forbear from applying the requirements of section 251(c) or 271 under [section 10(a)] until it determines that those requirements have been fully implemented.” 47 U.S.C. § 160(d).

²² See *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16265-66, paras. 23-24.

²³ See *id.* at 16271-74, paras. 33-38.

²⁴ See, e.g., *SBC NDA Forbearance Order* (granting forbearance for BellSouth, SBC (except Nevada), and Bell Atlantic-South); *Petition of Bell Atlantic for Forbearance from Section 272 Requirements in Connection with National Directory Assistance Services*, CC Docket No. 97-172, Memorandum Opinion and Order, 14 FCC Rcd 21484 (Com. Car. Bur. 1999) (granting forbearance for Bell Atlantic-North).

²⁵ See *SBC NDA Forbearance Order*, 15 FCC Rcd at 6059, para. 11.

directory assistance service to its in-region subscribers, SBC uses interLATA transmission to connect end users to directory assistance operators and to retrieve directory listing information from the appropriate information storage facility.²⁶ We further find, however, that SBC's nonlocal directory assistance services fall within the scope of the exception provided in section 271(g)(4) for incidental, interLATA services.

11. As previously noted, section 271(g)(4) authorizes "the interLATA provision by a [BOC] or its affiliate . . . of a service that permits a customer that is located in one LATA to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another LATA."²⁷ In the *U S WEST NDA Forbearance Order*, the Commission concluded that section 271(g)(4) authorizes BOC provision of the capability for customers to access only the BOC's own centralized information storage facilities.²⁸ The Commission has recently concluded that an ownership interest of greater than 10 percent in information storage facilities makes those facilities the "information storage facilities of such company" under section 271(g)(4).²⁹ SBC states that it owns the information storage facilities it will use in the provision of nonlocal directory assistance service in Nevada.³⁰ We, therefore, find that SBC's nonlocal directory assistance services in Nevada will be configured in the same manner as the regionwide component of the nonlocal directory assistance services the Commission considered in the *U S WEST NDA Forbearance Order*.

12. On the basis of SBC's representations that it owns the information storage facilities it will use in the provision of nonlocal directory assistance service in Nevada, we conclude that SBC's nonlocal directory assistance service is an incidental, interLATA service as that term is defined in section 271(g)(4). SBC, therefore, may provide nonlocal directory assistance service to customers in Nevada without obtaining authorization from the Commission under section 271(d) to provide in-region, interLATA service.

C. Section 10

13. For the reasons set forth below, we forbear from applying the separate affiliate requirements of section 272 to SBC's nonlocal directory assistance services in Nevada. We allow SBC to provide nonlocal directory assistance service on an integrated basis, but require it

²⁶ See SBC Petition at 3.

²⁷ 47 U.S.C. § 271(g)(4).

²⁸ The Commission found that such a construction of the statute is apparent from Congress' use of the term "such company" in setting forth the types of services authorized by section 271(g)(4). The Commission further noted that such a construction of section 271(g)(4) is consistent with Congress' directive that the provisions of section 271(g) are to be narrowly construed. See *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16265, para. 23; *SBC NDA Forbearance Order*, 15 FCC Rcd at 6059, para. 12.

²⁹ See *U S WEST NDA Forbearance Order on Reconsideration*, 17 FCC Rcd at 17034, para. 8.

³⁰ See SBC Petition at 2.

to provide to unaffiliated entities all of the in-region directory listing information it uses to provide nonlocal directory assistance service at the same rates, terms, and conditions it imputes to itself. With respect to the first criterion for forbearance,³¹ we find it relevant that SBC is a relatively new entrant in the market for nonlocal directory assistance service that faces competition from interexchange carriers (such as AT&T, Sprint, and WorldCom), Internet service providers, and providers of payphone and cellular services.³² We also are persuaded by the fact that SBC does not exercise monopoly power over the components used to provide the telephone numbers of customers outside its regions.³³

14. In the *U S WEST NDA Forbearance Order*, the Commission required U S WEST to comply with the nondiscrimination requirements set forth in section 272(c)(1).³⁴ We find that the reasoning set forth in the *U S WEST NDA Forbearance Order* is fully applicable to SBC's nonlocal directory assistance services in Nevada.³⁵ We, therefore, impose these same requirements on SBC in Nevada. Thus, SBC must: (1) make available to unaffiliated entities all of the directory listing information that it uses to provide regionwide directory assistance service at the same rates, terms, and conditions it imputes to itself; (2) make changes to its cost allocation manuals to reflect this accounting change; and (3) update and maintain the directory listing information it provides to unaffiliated entities in the same manner it updates and maintains the directory listing information it uses in the provision of nonlocal directory

³¹ The first criterion requires the Commission to forbear if it determines that "enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory." 47 U.S.C. § 160(a).

³² See *SBC NDA Forbearance Order*, 15 FCC Rcd at 6060, para. 14.

³³ In the *U S WEST NDA Forbearance Order*, we noted that, like competing providers of nonlocal directory assistance service, U S WEST must obtain the telephone numbers of subscribers outside its region from unaffiliated entities that compile national listings or from other local exchange carriers. See *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16271, para. 33; see also *SBC NDA Forbearance Order*, 15 FCC Rcd at 6060, para. 14.

³⁴ See *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16273-74, paras. 37-38.

³⁵ In the *U S WEST NDA Forbearance Order*, the Commission found that the competitive advantages U S WEST enjoyed with respect to the provision of directory assistance service throughout its region stemmed from its dominant position in the local exchange and exchange access markets. Specifically, the Commission found that, because of its dominance in these markets, U S WEST had access to a more complete, accurate, and reliable database than its competitors. Given that U S WEST's competitive advantages in the provision of regionwide directory assistance service stemmed from its local exchange and exchange access monopolies, the Commission found that U S WEST must comply with the nondiscrimination requirements set forth in section 272 with respect to the in-region telephone numbers it uses in the provision of nonlocal directory assistance service. See *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16272-73, para. 35. SBC has been the dominant provider of local exchange and exchange access services in its regions for many years. Like U S WEST, the competitive advantages SBC possesses in the provision of the telephone numbers of customers inside its regions stem from its dominance in these markets.

assistance service.³⁶ SBC must also comply with the nondiscrimination requirements set forth in the *U S WEST NDA Forbearance Order*.³⁷

15. In the SBC petition, SBC explains that Nevada Bell's regional listings include Sprint listings for Nevada customers that SBC purchases for inclusion in its directory assistance database from Sprint.³⁸ SBC states that it "does not interpret the Commission's rules to require Nevada Bell to provide Sprint's DA listings on a nondiscriminatory basis."³⁹ It notes that SBC and BellSouth have filed a petition seeking clarification or reconsideration by the Commission of this issue.⁴⁰ SBC, however, states that Nevada Bell currently provides Sprint's directory assistance listings on a nondiscriminatory basis when requested and affirms that it will continue to do so pending the resolution of the SBC/BellSouth Petition for Reconsideration.⁴¹ On the basis of SBC's representations and given our expectation that SBC will comply with these requirements, we conclude that the first criterion for forbearance is satisfied.

16. With respect to the second criterion for forbearance,⁴² we note that retention of the section 272(c)(1) nondiscrimination requirements with respect to SBC's in-region telephone numbers should protect consumers by promoting the development of a fully competitive market for nonlocal directory assistance service. It should also ensure that no competitor will have an undue advantage in the nonlocal directory assistance services market in Nevada.⁴³ This should stimulate the entry of new providers of nonlocal directory assistance service, which, in turn, will

³⁶ See *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16273-74, para. 37; *SBC NDA Forbearance Order*, 15 FCC Rcd at 6060-61, para. 15.

³⁷ To the extent that any BOC cannot make available to unaffiliated entities the directory listing information it uses in the provision of nonlocal directory assistance, it must cease using these listings in its own provision of nonlocal directory assistance service. See *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16273-74, para. 37; *SBC NDA Forbearance Order*, 15 FCC Rcd at 6060-61, para. 15 n.44.

³⁸ See SBC Petition at 6 n.14.

³⁹ SBC Petition at 6 n.14; see also *Provision of Directory Listing Information under the Telecommunications Act of 1934, as Amended*, CC Docket No. 99-273, First Report and Order, 16 FCC Rcd 2736, 2750-51, para. 32 (2001).

⁴⁰ See SBC Petition at 6 n.14; see also SBC Communications Inc. and BellSouth Corporation Petition for Clarification or, in the Alternative, Reconsideration, CC Docket No. 99-273 (filed Mar. 23, 2001) (SBC/BellSouth Petition for Reconsideration).

⁴¹ See Letter from Toni R. Acton, Associate Director – Federal Regulatory, SBC, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-156 (filed Sept. 16, 2002).

⁴² The second criterion requires the Commission to forbear if it determines that "enforcement of such regulation or provision is not necessary for the protection of consumers." 47 U.S.C. § 160(a).

⁴³ See *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16278, para. 47; *SBC NDA Forbearance Order*, 15 FCC Rcd at 6061, para. 16.

encourage the providers of these services to compete on the basis of price and quality.⁴⁴ Because competition among providers of this type of directory assistance service is likely to benefit consumers, we conclude that the enforcement of section 272 is not necessary to prevent SBC from engaging in conduct that would harm consumers.⁴⁵ We, therefore, find that the second criterion for forbearance is met.

17. With respect to the third criterion for forbearance,⁴⁶ we conclude that allowing SBC to provide nonlocal directory assistance service on an integrated basis in Nevada is in the public interest because it will allow SBC to be a more effective competitor in the nonlocal directory assistance services market.⁴⁷ Conversely, if SBC were required to provide nonlocal directory assistance service through a separate affiliate, while continuing to provide local directory assistance service on an integrated basis, the additional cost and adverse competitive consequences for SBC would most likely outweigh any slight benefits for consumers from enforcing these requirements.⁴⁸ We conclude that the market for nonlocal directory assistance service in Nevada should become increasingly competitive if SBC is allowed to be an effective competitor in this market, which would ultimately benefit consumers because they would be able to obtain a convenient, competitively-priced nonlocal directory assistance service.⁴⁹ On the basis of these findings, we conclude that the third criterion for forbearance is met. Because we also find that the first and second criteria for forbearance are met, we forbear, in part, from the enforcement of section 272 as to SBC's provision of nonlocal directory assistance services in Nevada.

18. AT&T and WorldCom argue that the SBC petition should be denied because SBC has violated the condition that it make available to unaffiliated entities all of the directory listing information that it uses to provide regionwide directory assistance service at the same rates, terms, and conditions it imputes to itself in states for which SBC has already been granted the requested forbearance.⁵⁰ These commenters allege that SBC's provision of in-region directory

⁴⁴ See *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16278, para. 47; *SBC NDA Forbearance Order*, 15 FCC Rcd at 6061, para. 16.

⁴⁵ See *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16278, para. 47; *SBC NDA Forbearance Order*, 15 FCC Rcd at 6061, para. 16.

⁴⁶ The third criterion requires the Commission to forbear if it determines that "forbearance from applying such provision or regulation is consistent with the public interest." 47 U.S.C. §160(a).

⁴⁷ See *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16278-80, paras. 48-51; *SBC NDA Forbearance Order*, 15 FCC Rcd at 6061-62, para. 17.

⁴⁸ See *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16278-79, para. 49; *SBC NDA Forbearance Order*, 15 FCC Rcd at 6061-62, para. 17.

⁴⁹ See *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16279-80, paras. 50-51; *SBC NDA Forbearance Order*, 15 FCC Rcd at 6061-62, para. 17.

⁵⁰ See AT&T Comments at 1; WorldCom Comments at 4-5; see also *SBC NDA Forbearance Order*, 15 FCC

assistance database information is discriminatory and thus in violation of this condition because the directory listing information is provided at rates that are not cost-based.⁵¹ Moreover, AT&T alleges that “PAC Bell is not likely imputing to itself the above-cost rate it charges to third parties.”⁵² SBC responds that it fully complies with this condition in states in which it has already been granted forbearance from section 272 for its nonlocal directory assistance services and that it will impute to itself the directory assistance listing rates assessed to third parties for Nevada directory assistance listings.⁵³

19. Similar to the Commission’s findings in the *U S WEST NDA Forbearance Order*, we find that the accounting safeguards described above should ensure that the rates SBC imputes to itself, and therefore charges to unaffiliated entities, will not adversely affect competition in the nonlocal directory assistance services market.⁵⁴ Moreover, the Commission has affirmed that these requirements protect unaffiliated entities.⁵⁵ Accordingly, we reject commenters’ claims that application of the separate affiliate requirements of section 272 to SBC’s nonlocal directory assistance services in Nevada is necessary to prevent discrimination. We further find that any arguments concerning SBC’s failure to comply with the requirements of section 272(c)(1) or this Order are more appropriately addressed in the context of an enforcement proceeding.⁵⁶

IV. CONCLUSION

20. For the reasons set forth above, we conclude that SBC may provide nonlocal directory assistance service in Nevada because that service falls within the scope of section 271(g)(4). We further conclude that, as long as SBC complies with the nondiscrimination requirements set forth above with respect to providing unaffiliated entities with access to all of the in-region directory listing information it uses to provide nonlocal directory assistance

Rcd at 6060-61, para. 15.

⁵¹ See AT&T Comments at 1; WorldCom Comments at 4-5.

⁵² See AT&T Comments at 2.

⁵³ See SBC Reply Comments at 1-2.

⁵⁴ See *U S WEST NDA Forbearance Order*, 14 FCC Rcd at 16266-67, para. 25 & n.72; see also *SBC NDA Forbearance Order*, 15 FCC Rcd at 6063, para. 20; *Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No. 96-150, Report and Order, 11 FCC Rcd 17539, 17567-73, paras. 61-76 (1996) (concluding that the accounting safeguards ensure that the BOCs’ provision of incidental interLATA services on an integrated basis will not adversely affect telephone exchange ratepayers or competition in any telecommunications market).

⁵⁵ See *Petition of Bell Atlantic for Forbearance from Section 272 Requirements in Connection with National Directory Assistance Services*, CC Docket No. 97-172, Memorandum Opinion and Order, 15 FCC Rcd 13154, 13156, para. 4 (2000) (*Bell Atlantic-North NDA Forbearance Order on Review*).

⁵⁶ See *SBC NDA Forbearance Order*, 15 FCC Rcd at 6063, para. 21; see also *Bell Atlantic-North NDA Forbearance Order on Review*, 15 FCC Rcd at 13156, para. 4.

service, the statutory criteria for forbearance set forth in section 10 are satisfied. Therefore, we forbear, in part, from applying the requirements of section 272 to SBC's provision of nonlocal directory assistance service in Nevada. Accordingly, we allow SBC to provide nonlocal directory assistance service in Nevada on an integrated basis, subject to these nondiscrimination requirements.

V. ORDERING CLAUSES

21. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 10, 272, 303(r), 47 U.S.C. §§ 154(i), 160, 272, and 303(r), of the Communications Act of 1934, as amended, and sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that SBC's petition for forbearance with respect to its nonlocal directory assistance services in Nevada IS GRANTED to the extent set forth herein.

22. IT IS HEREBY FURTHER ORDERED, pursuant to section 1.103(a) of the Commission's rules, 47 C.F.R. § 1.103(a), that this Memorandum Opinion and Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Jeffrey J. Carlisle
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